

# PATENT COOPERATION TREATY

## PCT 10/51773

### INTERNATIONAL PRELIMINARY EXAMINATION REPORT (PCT Article 36 and Rule 70)

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WIPO

PCT

Applicant's or agent's file reference	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/05777	International filing date (day/month/year) 03.06.2003	Priority date (day/month/year) 12.06.2002
International Patent Classification (IPC) or both national classification and IPC D06M13/02		
Applicant COGNIS DEUTSCHLAND GMBH & CO. KG et al.		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
 

☐ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of    sheets.

3. This report contains Indications relating to the following items:
 

I    ☒ Basis of the opinion

II   ☐ Priority

III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability



IV ☐ Lack of unity of invention

V   ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

VI ☐ Certain documents cited

VII ☐ Certain defects in the international application

VIII ☐ Certain observations on the international application

Date of submission of the demand  06.11.2003	Date of completion of this report  23.09.2004
Name and mailing address of the international preliminary examining authority:   European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer  Fiocco, M  Telephone No. +31 70 340-4538  

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/EP 03/05777**

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1-12 as originally filed

**Claims, Numbers**

1-15 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
- ☐ the claims, Nos.:
- ☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. **PCT/EP 03/05777**

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**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;  
citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	1-15
	No: Claims	
Inventive step (IS)	Yes: Claims	7,13,14
	No: Claims	1-6, 8-12, 15
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

**Re Item V**

**Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

Reference is made to the following document:

D1: WO-A-0122933 (PROCTER & GAMBLE) - 5 April 2001 (2001-04-05)

**1) CLAIMS 1-13**

The subject-matter of claims 1-6 and 8-12 does not involve an inventive step in the sense of Article 33(3) PCT.

1.1) Claim 1: document **D1**, which is considered to represent the most relevant state of the art, discloses (cf. **claim 5**) a composition, solid at 21°C (cf. **page 17, lines 29-32**), comprising:

(a) from 5 to 95% of an emollient which can be a partial glyceride melting in the range from 45 to 70°C (e.g. glyceryl stearate, cf. **page 21, lines 7-14**), identified as compound (c) of present claim 1;

(b) from 1 to 95% of a permeability agent, which can be a C<sub>7</sub>-C<sub>40</sub> paraffin (including components melting between 25 and 37°C) or a fatty acid ester (cf. **page 24, lines 1-13**), identified as compound (a) of present claim 1;

(c) from 5 to 95% of an immobilizing agent, which can be a polyhydroxy fatty acid ester, a C<sub>14</sub> fatty alcohol, a C<sub>12</sub> fatty acid or their alkoxyated derivatives, having a melting point of at least 40°C (cf. **page 27, lines 1-28**), identified as compound (b) of present claim 1.

It is reasonably assumed that a skilled person would have tried the specific combinations which are claimed in present claim 1.

Hence, the subject-matter of claim 1 does not involve an inventive step.

1.2) Dependent claims 2-6 and 8-12 do not appear to contain any additional features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT with respect to inventive step, the reasons being as follows: all the additional features of claims 2-6 and 8-12 are disclosed in D1.

1.3) The combination of the features of dependent claims 7 and 13 is neither known from, nor rendered obvious by, the available prior art. The reasons are as follows:

1.3.1) Claim 7: it is not suggested in the prior art to use poly(vinyl stearyl ether) as a

crystallization accelerator, neither it is obvious for a person skilled in the art to use poly(vinyl stearyl ether) in combination with the components a) and c) of present claim 1.

1.3.2) Claim 13 comprises all the features of claim 7 and as such also meets the requirements of the PCT with respect to novelty and inventive step.

**2) CLAIM 14**

The document **D1** is regarded as being the closest prior art to the subject-matter of claim 14, and shows (cf. **page 28, lines 8-15, and examples**) the use of glyceryl monoesters of  $C_{16}$ - $C_{22}$  fatty acids as immobilizing agents in the skin-friendly finishing of nonwovens. The subject-matter of claim 14 differs from this known use in that the immobilizing agent (i.e. the crystallization accelerator) is glyceryl monolaurate.

The subject-matter of claim 14 is therefore new (Article 33(2) PCT).

The problem to be solved by the present invention may be regarded as to provide an alternative crystallization accelerator for the skin-friendly finishing of nonwovens.

The solution to this problem proposed in claim 14 of the present application is considered as involving an inventive step (Article 33(3) PCT) for the following reasons: there is no incentive in **D1**, nor in the other cited documents, to use glyceryl monolaurate as crystallization accelerator. A person skilled in the art trying to find an alternative crystallization accelerator would have only tried monoesters of  $C_{16}$ - $C_{22}$  fatty acids, as suggested in **D1**.

**3) CLAIM 15**

The subject-matter of claim 15 does not involve an inventive step in the sense of Article 33(3) PCT.

Document **D1**, which is considered to represent the most relevant state of the art, discloses (cf. **claims 1-5**) a substrate finished with a composition which falls into the terms of present claim 1 (see section 1.1 above). The substrate can be a nonwoven comprising polyethylene (cf. **page 8, lines 6-18**).

Hence, the subject-matter of claim 15 does not involve an inventive step.